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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 MELODY CASNER,

8 Plaintiff(s),

Case No. 2:18-CV-113 JCM (VCF)

ORDER

9 v.

10 NANCY A. BERRYHILL,

11 Defendant(s).

12
13 Presently before the court is Magistrate Judge Ferenbach's report and recommendation
14 ("R&R") in the matter of *Casner v. Commissioner of Social Security*, case number 2:18-cv-00113-
15 JCM-VCF. No objections have been filed, and the deadline for doing so has passed.

16 Also before the court is plaintiff Melody Casner's ("plaintiff") motion to remand. (ECF
17 No. 20). Defendant Commissioner of Social Security ("defendant") filed a response (ECF No.
18 24). Plaintiff has not filed a reply, and the time to do so has passed.

19 Lastly before the court is defendant's counter-motion to affirm the agency decision. (ECF
20 No. 23). No response has been filed, and the time to do so has passed.

21 Magistrate Judge Ferenbach finds that the administrative law judge ("ALJ") erred in ruling
22 that plaintiff is capable of performing past relevant work without consulting a treating, examining,
23 or non-examining physician (or other medical expert) prior to rendering a decision. (ECF No. 27
24 at 3-4). *See Nemergut v. Astrue*, No. 2:13-cv-0254-GMN-GWF, 2015 WL 1119965, at *16 (D.
25 Nev. Mar. 12, 2015); *see also Mendoza v. Barnhart*, 436 F. Supp. 2d 1110, 1116 (C.D. Cal. 2006)
26 ("[T]he administrative record does not contain any opinion by a treating or examining physician
27 regarding plaintiff's RFC, and the ALJ failed to get such an opinion. Thus, the ALJ also did not
28 fully and fairly develop the record in this regard."). Accordingly, Magistrate Judge Ferenbach

1 recommends that the court grant plaintiff's motion to remand (ECF No. 20) and deny defendant's
2 countermotion to affirm (ECF No. 23). (ECF No. 27).

3 This court "may accept, reject, or modify, in whole or in part, the findings or
4 recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Where a party timely objects
5 to a magistrate judge's report and recommendation, then the court is required to "make a de novo
6 determination of those portions of the [report and recommendation] to which objection is made."
7 28 U.S.C. § 636(b)(1).

8 Where a party fails to object, however, the court is not required to conduct "any review at
9 all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149
10 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a
11 magistrate judge's report and recommendation where no objections have been filed. *See United*
12 *States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review
13 employed by the district court when reviewing a report and recommendation to which no
14 objections were made).

15 Nevertheless, this court conducted a *de novo* review to determine whether to adopt the
16 recommendation of the magistrate judge. Upon reviewing the recommendation and underlying
17 briefs, this court finds good cause appears to adopt the magistrate judge's findings in full.

18 Accordingly,

19 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Magistrate Judge
20 Ferenbach's report and recommendation (ECF No. 27) are ADOPTED in their entirety.

21 IT IS FURTHER ORDERED that defendant's motion to affirm the agency decision (ECF
22 No. 23) be, and the same hereby is, DENIED.

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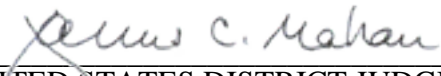
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1 IT IS FURTHER ORDERED that plaintiff's motion to remand (ECF No. 20) be, and the
2 same hereby is, GRANTED, and that this matter is remanded to the Social Security Administration
3 for further administrative proceedings consistent with Magistrate Judge Ferenbach's report and
4 recommendation.

5 DATED June 27, 2019.

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8 UNITED STATES DISTRICT JUDGE
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